

CERTAIN & ZILBERG, PLLC
488 MADISON AVENUE, 20TH FLOOR
NEW YORK, NEW YORK 10022
TEL. 212.687.7800
FAX 212.687.7801

Writer's Extension: x225
Writer's Email: gcertain@certainlaw.com

July 20, 2020

VIA ECF

Honorable Lois Bloom
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: Ramaj v. ConAgra Foods et al.
Case No.: 1:19-cv-00284-ENV-LB

Dear Magistrate Judge Lois Bloom:

I write on behalf of Ms. Bardhe Ramaj, pursuant to the directives of this Court's Order of May 15, 2020, and in response to the Defendant's letter dated July 20, 2020 (ECF Document 65), sans issues previously resolved by this Court, but which are nonetheless recounted by Defendant at some length.

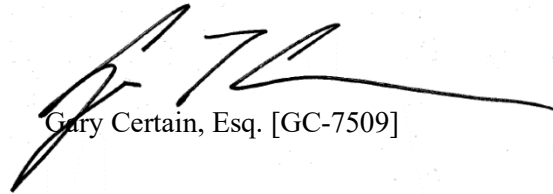
Through no fault of the parties, the current COVID-19 pandemic has caused significant delays in efforts to complete discovery, i.e. Rule 30(b)(6) depositions of ConAgra's designees as well as expert reports that are expected to rely, in part, on said deposition transcripts. I have discussed with ConAgra's counsel the need to work together to determine what might be a feasible plan to complete the depositions without exposing concerned individuals to unnecessary health risks.

With respect to the *Urena* case, it should be noted that the recent *Urena* decision relied on a record and issue materially distinct from the facts of the instant case, including the spoliation of the accident product and the voluntary withdrawal of manufacturing defect claims, with prejudice.

In reliance upon the distinguishable *Urena* decision, Defendant ConAgra now seeks novel relief in the form of an interim "showing" in advance of a summary judgment motion in order to justify plaintiff's continued pursuit of her claims, after Defendant already passed on the opportunity to move for relief pursuant to Rule 12(b)(6), as they had unsuccessfully attempted in *Miccio v. Conagra Foods, Inc. et al.*, 224 F.Supp.3d 200 (W.D.N.Y. December 20, 2016) Certainly, Defendant ConAgra will have the opportunity to move for summary judgment at the close of discovery. However, it would be premature to apply a 'showing' litmus test to Plaintiff Ramaj's claims as she actively seeks discovery to support her claims. Plaintiff respectfully requests that the Defendant ConAgra's "showing" request be denied and asks that the parties be directed to confer,

in coordination with all concerned parties and service providers, in a good faith effort to develop a feasible plan and timetable for the completion of discovery.

Respectfully submitted,



Gary Certain, Esq. [GC-7509]

CC:

EMILY A. AMBROSE, ESQ. (*admitted pro hac vice*)
Blackwell Burke P.A.
Counsel to Defendants ConAgra Foods, Inc.
and Conagra Brands, Inc.
431 South Seventh Street, Suite 2500
Minneapolis MN 55415
Phone: (612) 343-3200
Fax: (612) 343-3205
eambrose@blackwellburke.com

TIMOTHY J. MCHUGH, ESQ.
FRANCIS F. QUINN, ESQ.
Lavin, Cedrone, Graver, Boyd & DiSipio
Counsel to Defendants ConAgra Foods, Inc.
and Conagra Brands, Inc.
420 Lexington Avenue, Suite 335
New York, New York 10170
Phone: (212) 319-6898
Fax: (212) 319-6932
tmchugh@lavin-law.com
fquinn@lavin-law.com